BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)

   VERIZON HAWAII INC.                )

   DOCKET NO. 04-0319

   For Approval of Amendment No. 2 )
   To the Interconnection Agreement)  
   Between Level 3 Communications,)  
   LLC and Verizon Hawaii Inc.       )

DECISION AND ORDER NO. 21571

Filed ________, 2005
At _______ o'clock _______ A.M.

Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.
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VERIZON HAWAII INC. )
) Docket No. 04-0319
) Decision and Order No. 21571
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To the Interconnection Agreement)
Between Level 3 Communications, )
LLC and Verizon Hawaii Inc. )

DECISION AND ORDER

By this decision and order, the commission
approves Amendment No. 2 to the Interconnection Agreement
between VERIZON HAWAII INC. ("Verizon Hawaii") and LEVEL 3
COMMUNICATIONS, LLC ("Level 3") (collectively, the "Parties"), as
further described herein.

I.
Introduction

Verizon Hawaii requests commission approval of
Amendment No. 2 to its Interconnection Agreement with Level 3
("Amendment No. 2") in a petition filed on November 3, 2004,
("Petition"). Verizon Hawaii included a copy of Amendment No. 2
as part of its Petition. Amendment No. 2 was filed pursuant to
Section 252(e) of the federal Telecommunications Act of 1996
("Act")\(^1\) and Hawaii Administrative Rules ("HAR") § 6-80-54.

\(^1\)The Act amended Title 47 of the United States Code
("U.S.C."). Section references in this decision and order are, thus, to those in 47 U.S.C., as amended by the Act.
Copies of Verizon Hawaii's Petition and Amendment No. 2 were served on the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). The Consumer Advocate filed its Statement of Position on January 14, 2005, informing the commission that it does not object to the approval of Amendment No. 2 ("Statement of Position").

II. The Parties and Amendment No. 2

Verizon Hawaii is a corporation duly organized and existing under and by virtue of the laws of the State of Hawaii ("State"). It is engaged in the provision of varied telecommunications services to its customers and the general public within Verizon Hawaii's chartered territory in the State. Verizon Hawaii is an incumbent local exchange carrier, as contemplated by Section 252 of the Act. Level 3 is an authorized provider of facilities-based and resold telecommunications services in the State.

The commission approved the original interconnection agreement between the Parties in Decision and Order No. 19479, filed on July 23, 2002, in Docket No. 02-0104 ("Original Agreement" or "Interconnection Agreement"). The Parties’ Amendment No. 1 to the Interconnection Agreement was approved by

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2No person moved to intervene or participate in this docket.

3The commission granted Level 3 a certificate of authority ("COA") to operate as a facilities-based carrier and reseller of intrastate telecommunications services in the State through Decision and Order No. 17053, filed on June 29, 1999, in Docket No. 99-0049.

04-0319 2
the commission in Decision and Order No. 20106, filed on April 3, 2003, in Docket No. 03-0003.

Amendment No. 2 modifies the Original Agreement by establishing new terms and conditions that govern the Parties' rights and obligations with regards to intercarrier compensation and interconnection architecture. The terms and conditions of Amendment No. 2 appear to have been negotiated and arrived at voluntarily, as contemplated by 47 U.S.C. § 252(a).

III.

Consumer Advocate's Position

In its Statement of Position, the Consumer Advocate notes that the terms and conditions of Amendment No. 2 governing intercarrier compensation and interconnection architecture "appear to be consistent with Federal Communications Commission ("FCC") rulings and notices." In particular, among other things, the Consumer Advocate states that Amendment No. 2's rate plan covering ISP-Bound Traffic, Local Traffic, and VOIP Traffic (as those terms are defined in Attachment A of Amendment No. 2) adhere to the requirements of the "FCC's Order on Remand and Report and Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunication Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, FCC 01-131, CC Docket Nos. 96-98 and 99-68, released April 27, 2004."

"See, Statement of Position at 3."
2001, which set forth a transitional rate plan capped at $0.0007 per MOU [Minutes of Use]."  

Additionally, the Consumer Advocate finds that Amendment No. 2 "does not or would not discriminate against a telecommunications carrier not a party to the agreement" and states that it appears to be consistent with the public interest, convenience, and necessity objectives of promoting competition in the telecommunications industry. Moreover, the Consumer Advocate notes that the commission has previously approved amendments to agreements between Verizon Hawaii and other carriers with similar intercarrier compensation terms and conditions and that approval of Amendment No. 2 will allow Level 3 to continue to provide telecommunications services as its COA authorizes.

IV. 
Findings and Conclusions

In our review of Amendment No. 2, we are governed by 47 U.S.C. § 252(e) and HAR § 6-80-54. These sections provide that we may reject a negotiated agreement only if:

(1) The agreement, or any portion of the agreement, discriminates against a telecommunications carrier not a party to the agreement; or

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5 Ibid. 
6 See, Statement of Position at 5. 
7 The Consumer Advocate refers to the following: (1) Decision and Order No. 19372 for Docket No. 02-0049, and (2) Decision and Order No. 20921 for Docket No. 04-0022. See, Statement of Position at 4-5.
(2) The implementation of the agreement, or any portion of the agreement, is not consistent with the public interest, convenience, and necessity.

Our review indicates that Amendment No. 2 does not discriminate against other telecommunications carriers and that implementation of Amendment No. 2 is consistent with the public interest, convenience, and necessity. The Consumer Advocate agrees with our assessment of Amendment No. 2. Moreover, approval of Amendment No. 2 will promote competition in the State's telecommunications market by, among other things, allowing Level 3 to continue to provide telecommunications services in the State.

V.
Orders

THE COMMISSION ORDERS:

1. Amendment No. 2 to the Interconnection Agreement between Verizon Hawaii and Level 3, filed on November 3, 2004, is approved.

2. This docket is closed.

See, Statement of Position at 5.
DONE at Honolulu, Hawaii  

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso, Chairman

By Wayne H. Kimura, Commissioner

By Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

Ji Sook Kim
Commission Counsel
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21571 upon the following Petitioners, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DATED:  JAN 28 2005

Karen Higashi

Karen Higashi